

Fishery Conservation and Management

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(e) *Authorization by the SAC.* The SAC has authority over the installation and operation of the VMS unit. The SAC may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by the SAC.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29654, May 24, 2005]

§ 665.26 Longline fishing prohibited area management.

(a) *Prohibited areas.* Longline fishing shall be prohibited in the longline fishing prohibited areas as defined in paragraphs (b), (c), and (d) of this section.

(b) *Longline protected species zone.* The protected species zone is 50 nm from the center geographical positions of Nihoa Island, Necker Island, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Islands, and Kure Island, as defined in § 665.12.

(c) *Main Hawaiian Islands.* (1) From February 1 through September 30 each year, the longline fishing prohibited area around the main Hawaiian Islands is the portion of the EEZ seaward of Hawaii bounded by straight lines connecting the following coordinates in the order listed:

| Point | N. lat. | DW. long. |
|---------|---------|-----------|
| A | 18°05' | 155°40' |
| B | 18°20' | 156°25' |
| C | 20°00' | 157°30' |
| D | 20°40' | 161°40' |
| E | 21°40' | 161°55' |
| F | 23°00' | 161°30' |
| G | 23°05' | 159°30' |
| H | 22°55' | 157°30' |
| I | 21°30' | 155°30' |
| J | 19°50' | 153°50' |
| K | 19°00' | 154°05' |
| A | 18°05' | 155°40' |

(2) From October 1 through the following January 31 each year, the longline fishing prohibited area around the main Hawaiian Islands is the portion of the EEZ seaward of Hawaii bounded by straight lines connecting the following coordinates in the order listed:

| Point | N. lat. | W. long. |
|---------|---------|----------|
| A | 18°05' | 155°40' |
| L | 18°25' | 155°40' |
| M | 19°00' | 154°45' |

| Point | N. lat. | W. long. |
|---------|---------|----------|
| N | 19°15' | 154°25' |
| O | 19°40' | 154°20' |
| P | 20°20' | 154°55' |
| Q | 20°35' | 155°30' |
| R | 21°00' | 155°35' |
| S | 22°30' | 157°35' |
| T | 22°40' | 159°35' |
| U | 22°25' | 160°20' |
| V | 21°55' | 160°55' |
| W | 21°40' | 161°00' |
| E | 21°40' | 161°55' |
| D | 20°40' | 161°40' |
| C | 20°00' | 157°30' |
| B | 18°20' | 156°25' |
| A | 18°05' | 155°40' |

(d) *Guam.* The longline fishing prohibited area around Guam is the waters seaward of Guam bounded by straight lines connecting the following coordinates in the order listed:

| Point | N. lat. | E. long. |
|---------|---------|------------|
| A | 14°25' | 144°00' |
| B | 14°00' | 143°38' |
| C | 13°41' | 143°33'33" |
| D | 13°00' | 143°25'30" |
| E | 12°20' | 143°37' |
| F | 11°40' | 144°09' |
| G | 12°00' | 145°00' |
| H | 13°00' | 145°42' |
| I | 13°27' | 145°51' |

[61 FR 34572, July 2, 1996, as amended at 71 FR 10869, Mar. 3, 2006]

§ 665.27 Exemptions for longline fishing prohibited areas; procedures.

(a) An exemption permitting a person to use longline gear to fish in a portion(s) of the Hawaii longline fishing prohibited area will be issued to a person who can document that he or she:

(1) Currently owns a Hawaii longline limited access permit issued under this part and registered for use with his or her vessel.

(2) Before 1970, was the owner or operator of a vessel when that vessel landed Pacific pelagic management unit species taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area.

(3) Was the owner or operator of a vessel that landed Pacific pelagic management unit species taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area, in at least 5 calendar years after 1969, which need not be consecutive.

(4) In any one of the 5 calendar years, was the owner or operator of a vessel that harvested at least 80 percent of its

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total landings, by weight, of longline-caught Pacific pelagic management unit species in an area that is now in the Hawaii longline fishing prohibited area.

(b) Each exemption shall specify the portion(s) of the Hawaii longline fishing prohibited area, bounded by longitudinal and latitudinal lines drawn to include each statistical area, as appearing on Hawaii State Commercial Fisheries Charts, in which the exemption holder made the harvest documented for the exemption application under paragraph (a)(4) of this section.

(c) Each exemption is valid only within the portion(s) of the Hawaii longline fishing prohibited area specified on the exemption.

(d) A person seeking an exemption under this section must submit an application and supporting documentation to the PIRO at least 15 days before the desired effective date of the exemption.

(e) If the Regional Administrator determines that a gear conflict has occurred and is likely to occur again in the Hawaii longline fishing prohibited area between a vessel used by a person holding an exemption under this section and a non-longline vessel, the Regional Administrator may prohibit all longline fishing in the Hawaii longline fishing prohibited area around the island where the conflict occurred, or in portions thereof, upon notice to each holder of an exemption who would be affected by such a prohibition.

(f) The Council will consider information provided by persons with Hawaii longline limited access permits issued under this part who believe they have experienced extreme financial hardship resulting from the Hawaii longline area closure, and will consider recommendations of the Pelagic Advisory Review Board to assess whether exemptions under this section should continue to be allowed, and, if appropriate, revise the qualifying criteria in paragraph (a) of this section to permit additional exemptions.

(1) If additional exemptions are needed, the Council will advise the Regional Administrator in writing of its recommendation, including criteria by which financial hardships will be miti-

gated, while retaining the effectiveness of the longline fishing prohibited area.

(2) Following a review of the Council's recommendation and supporting rationale, the Regional Administrator may:

(i) Reject the Council's recommendation, in which case written reasons will be provided by the Regional Administrator to the Council for the rejection; or

(ii) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the Pelagics FMP, the national standards, and other applicable law, initiate rulemaking to implement the Council's recommendations.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

§ 665.28 Conditions for at-sea observer coverage.

(a) NMFS shall advise the permit holder or the designated agent of any observer requirement at least 24 hours (not including weekends and Federal holidays) before any trip for which NMFS received timely notice in compliance with these regulations.

(b) The "Notice Prior to Fishing Trip" requirements in this subpart commit the permit holder to the representations in the notice. The notice can be modified by the permit holder or designated agent because of changed circumstance, if the Regional Administrator is promptly provided a modification to the notice that complies with the notice requirements. The notice will also be considered modified if the Regional Administrator and the permit holder or designated agent agree to placement changes.

(c) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart, or as a condition of an EFP issued under § 665.17, the vessel may not engage in the fishery without taking the observer.

(d) A NMFS observer shall arrive at the observer's assigned vessel 30 minutes before the time designated for departure in the notice or the notice as modified, and will wait 1 hour for departure.